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5 UNITED STATES DISTRICT COURT  
6 EASTERN DISTRICT OF WASHINGTON

7 UNITED STATES OF AMERICA,  
8 Plaintiff,

9 -vs-

10 AHMED FAWZI,

11 Defendant.

NO. CR-05-0175-WFN

ORDER

12  
13 A pretrial conference was held November 23, 2005. The Defendant, who is in custody,  
14 was present and represented by Kimberly Deater; Assistant United States Attorney Aine  
15 Ahmed represented the Government. Pending before the Court were various pretrial motions.

16 The Court has reviewed the file and is fully informed. This Order is entered to  
17 memorialize and supplement the oral rulings of the Court. Accordingly,

18 **IT IS ORDERED** that:

19 1. The Defendant's Motion to Continue Pretrial and Trial, filed November 19, 2005,  
20 **Ct. Rec. 28**, is **GRANTED**.

21 The Court finds that the ends of justice served by the granting of a continuance of  
22 the trial in this matter outweigh the best interests of the public and the Defendant in a speedy  
23 trial. A trial date of December 19, 2005 would deny Defendant effective assistance of  
24 counsel, taking into account the exercise of due diligence.

25 2. The trial date of December 19, 2005 is **STRICKEN and RESET to February 13,**  
26 **2006, at 1:00 p.m., in Spokane, Washington.**

1           3. All time from the trial date of December 19, 2005, to the new trial date of  
2 February 13, 2006, is **EXCLUDED** for speedy trial calculations pursuant to 18 U.S.C.  
3 § 3161(h)(8)(A). The Defendant has signed a waiver of his speedy trial rights.

4           4. The final pretrial conference of December 19, 2005, is **STRICKEN and RESET**  
5 **to February 13, 2006, at 11:00 a.m., in Spokane, Washington.**

6           5. All time from the filing of Defendant's Motion to Continue Trial on November 19,  
7 2005, to the date of the hearing on November 23, 2005, is **EXCLUDED** for speedy trial  
8 calculations pursuant to 18 U.S.C. § 3161(h)(1)(F).

9           6. Trial briefs, motions in limine, requested voir dire, witness and exhibit lists, and  
10 a set of proposed **JOINT JURY INSTRUCTIONS** shall be filed and served on or before  
11 **January 30, 2006.**

12           Jury instructions should only address issues that are unique to this case, and shall  
13 include instructions regarding the elements of each claim, any necessary definitions and a  
14 proposed verdict form.

15           The Joint Proposed Jury Instructions shall include:

16           (a) The instructions on which the parties agree; and

17           (b) Copies of instructions that are disputed (i.e., a copy of each party's proposed  
18 version of an instruction upon which they do not agree). All jury instructions from the most  
19 current edition of the Ninth Circuit Manual of Model Jury Instructions may be proposed by  
20 number. The submission of the Joint Proposed Jury Instructions will satisfy the requirements  
21 of LR 51.1(c).

22           On or before **January 30, 2006**, each party shall address any objections they have  
23 to instructions proposed by any other party in a memorandum. The parties shall identify the  
24 specific portion of any proposed instruction to which they object and shall elaborate the basis  
25 for the objection. Objections asserting that an instruction sets forth an incorrect statement of  
26 law shall describe the legal authority that supports this objection. Failure to file an objection

1 and supporting argument may be construed as consent to the adoption of an instruction  
2 proposed by another party.

3 7. An additional pretrial conference shall be held **January 17, 2006, at 8:30 a.m., in**  
4 **Spokane, Washington.** Three hours have been set aside for this hearing.

5 (a) All additional motions shall be filed and served no later than **December 23,**  
6 **2005.**

7 (b) Responses shall be filed and served no later than **January 5, 2006.**

8 8. Defendant's Motion to Sever, filed November 19, 2005, **Ct. Rec. 31**, is **DENIED**  
9 **with a right to renew** at the close of the Government's evidence. *See* Fed. R. Crim. P. 14;  
10 *United States v. Yarbrough*, 852 F.2d 1522, 1531 (9th Cir. 1988).

11 9. Defendant's Motion to Compel Discovery, filed November 19, 2005, **Ct. Rec. 29**,  
12 is **GRANTED IN PART and DENIED IN PART.** The Government is directed to provide  
13 defense counsel with information on any other cases the confidential informant has worked  
14 on. The Government is also directed to make inquiries with the Spokane Police Department  
15 regarding any information that the Spokane Police Department has regarding the confidential  
16 informant.

17 10. The Court **RESERVES RULING** on Government's Motion to Admit 404(b)  
18 Evidence, filed November 21, 2005, **Ct. Rec. 32**, until the final pretrial conference set for  
19 **February 13, 2006.**

20 The District Court Executive is directed to file this Order and provide copies to  
21 counsel.

22 **DATED** this 28th day of November, 2005.

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25 11-23  
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s/ Wm. Fremming Nielsen  
WM. FREMMING NIELSEN  
SENIOR UNITED STATES DISTRICT JUDGE